



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/749,675

12/28/2000

Cao Thanh Phan

Q62440

8686

23373

7590

10/18/2005

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER

HAN, CLEMENCE S

ART UNIT

PAPER NUMBER

2668

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/749,675

Applicant(s)

PHAN ET AL.

Examiner

Clemence Han

Art Unit

2668

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. In view of the appeal brief filed on August 09, 2005, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Schroeder et al. (US 5,274,697).

Regarding to claim 1, Schroeder teaches a method of maintaining communications options within a private communications network comprising a plurality of private exchange nodes, each of the nodes being capable of communicating with all other nodes in normal operation via two-way communications trunks interconnecting some of the nodes in pairs, the method comprising: detecting faulty operation that leads to the network becoming split into at least two network portions which can no longer communicate with each other via any of the trunks of the private communications network (Column 2 Line 12-15 and Column 1 Line 14-21); and implementing emergency means which provide at least one dynamic access for ensuring that all of the nodes of the network can again communicate with all of the other nodes, thereby maintaining a set of services proposed by the network in normal operation (Column 2 Line 15-19); and transmitting calls through the network using routing that is static and predetermined once the emergency means have been implemented (Column 2 Line 19-23).

Regarding to claim 2, Schroeder teaches defining a set of network nodes from which the dynamic accesses are available prior to any faulty operation giving rise to the network being split 102.

Regarding to claim 3, Schroeder teaches the dynamic access implemented only to satisfy a call request between two nodes that can no longer be connected together once the network has split (Column 2 Line 15-19).

Regarding to claim 4, Schroeder teaches the static routing defining a single access path between a sending node and a destination node, the single access path being stored in the sending node and in the destination node 150.

Regarding to claim 5, Schroeder teaches releasing the dynamic accesses as soon as the faulty operation that caused the network to split has ceased and the last call supported by the dynamic accesses has finished (Column 7 Line 50-66).

Regarding to claim 6, Schroeder teaches the emergency means comprising modems disposed at the nodes defined prior to any faulty operation and from which dynamic access is available 102.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schroeder et al. (US 5,274,697) in view of Ko et al. (US Patent 5,479,407).

Regarding to claim 7, Schroeder teaches a method of maintaining communications options within a private communications network comprising a plurality of private exchange nodes, each of the nodes being capable of communicating with all other nodes in normal operation via two-way communications trunks interconnecting some of the nodes in pairs, the method comprising: detecting faulty operation that leads to the network becoming split into at least two network portions which can no longer communicate with each other via any of the trunks of the private communications network (Column 2 Line 12-15 and Column 1 Line 14-21); and implementing emergency means which provide at least one dynamic access for ensuring that all of the nodes of the network can again communicate with all of the other nodes, thereby maintaining a set of services proposed by the network in normal operation (Column 2 Line 15-19); and transmitting calls through the network using routing that is static and predetermined once the emergency means have been implemented (Column 2 Line 19-23). Schroeder, however, does not teach the emergency means utilizing Ethernet links. Ko teaches the emergency means utilizes Ethernet links (Column 2

Line 50–61). It would have been obvious to one skilled in the art to modify Schroeder to have the emergency means utilizing Ethernet links as taught by Ko in order to backup communication with higher capacity (Column 1 Line 26-40).

Regarding to claim 8, Ko teaches the emergency means utilizes a B channel on an access of a communications circuit (Column 1 Line 26–41).

Response to Arguments

6. Applicant's arguments with respect to claim 1-8 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clemence Han whose telephone number is (571) 272-3158. The examiner can normally be reached on Monday-Thursday 7 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chieh Fan can be reached on (571) 272-3042. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

C.H.

Clemence Han
Examiner
Art Unit 2668

Chieh M. Fan

**CHIEH M. FAN
PRIMARY EXAMINER**